

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Rule making related to statewide average charges

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

These amendments update administrative rules to remove specific amounts listed for the statewide average charges for nursing facility services to private-pay residents, average pay charges for nursing facilities and psychiatric medical institutions for children, and the maximum Medicaid rate for intermediate care facilities for persons with an intellectual disability. The annually revised amounts for these charges will now be published on the Department’s website.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4443C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 11, 2019, because these amendments confer a benefit on the public by allowing the updated figures to be available to the public immediately upon filing the rules with the administrative rules coordinator.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 10, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The proposed amendments will eliminate the need for emergency rule makings each year. The process of determining the statewide average costs and maximum Medicaid rates will not change. Removing the specific amounts from rules will have no fiscal impact.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on July 11, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. ~~For the period from July 1, 2018, through June 30, 2019, this average statewide cost shall be \$6,447.54 per month or \$212.09 per day.~~ Current average statewide costs shall be published on the department's website.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates ~~for the period from July 1, 2018, to June 30, 2019, shall be as follows:~~ are updated annually and shall be published on the department's website.

~~(1) The average statewide charge to a private-pay resident of a nursing facility is \$6,005 per month.~~

~~(2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is \$31,529 per month.~~

~~(3) The average statewide charge to a resident of a mental health institute is \$27,667 per month.~~

~~(4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is \$9,088 per month.~~

~~(5) The average statewide charge to a home- and community-based waiver applicant or member shall be consistent with the level of care determination and correspond with the average charges and rates set forth in this paragraph.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.